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C O N F I D E N T I A L SECTION 01 OF 02 ISLAMABAD 000079

SIPDIS

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SUBJECT: PAKISTAN TO SHIFT MUMBAI INVESTIGATION TO LAW
ENFORCEMENT

Classified By: Anne W. Patterson for reasons 1.4 (b), (d).

¶1. (C) Summary: The Ambassador met with Foreign Secretary Bashir on January 12 and President Zardari on January 13 to discuss the ongoing investigation of the Mumbai attacks. Both Zardari and Bashir described the planned law enforcement strategy the GOP had set in motion. The various intelligence agencies, law enforcement agencies, and ministries have been meeting to work out a structure to bring the Mumbai investigation into the law enforcement arena and to have the suspects tried in Pakistani courts of law. The President and the Foreign Secretary both recognized the challenges involved in bringing what has been thus far essentially an intelligence case into the legal realm and holding the terror suspects accountable in courts of law. Despite the challenges, Pakistan recognizes the inherent benefits in satisfying both India and their own citizens with a legal and transparent means to punishing the terrorists. End summary.

¶2. (C) On January 12, the Ambassador and Foreign Secretary Bashir discussed how the GOP was handling the Mumbai investigation. Bashir stressed that Pakistan was serious about cooperating with India and that the GOP wanted to return to the "pre-Mumbai attacks" situation, specifically the dialogue and normalization track. The Pakistani interagency process in Islamabad was still trying to iron out how to deal with Kasab and other Pakistani suspects in the Mumbai attacks. Bashir said the GOP was focused on two things right now: unity of message and moving the investigation from the intelligence realm into the law enforcement arena. In terms of message, Bashir said that too many people in the GOP were saying too many contradictory things, which made Pakistan look weak. The GOP was focused on having fewer people talk to the press and ensuring that those who do talk to the press say much less. The interagency process within the GOP was supposed to coordinate both the message and actions across several agencies and ministries.

¶3. (C) Bashir told the Ambassador that the GOP planned to aggressively prosecute any suspects in the Mumbai attacks and that this (not extradition) was in Pakistan's best interest. Bashir outlined the plan to move the Mumbai investigation into a law enforcement structure. He said that Director General of the Inter-Services Intelligence (ISI) Pasha was not interested in keeping the suspects and wanted law enforcement to handle the issue. Interior Minister Rehman Malik, the highest law enforcement official in Pakistan, was to take the Mumbai issue and constitute a task force on the issue. Pasha was to work with GOP law enforcement to develop

an evidentiary trail that would allow prosecution. Bashir cited the many challenges in developing evidence that would stand up in court. Most of the evidence that Pakistan had was based on unsigned confessions- none of which were legally admissible. The GOP also realized that anything its officials may say publicly would now be admissible in court. Bashir stressed that India would have to help Pakistan develop concrete evidence that was admissible in court.

14. (C) The GOP planned to prosecute the terror suspects under the Anti-Terrorism Act, which provides fairly expansive prosecution powers against terrorists. Bashir explained that the main obstacle was that the Act only provides jurisdiction for terrorist acts committed within Pakistan. President Zardari planned to expand the jurisdiction to acts outside Pakistan by a presidential ordinance. Subsequent to its expanded jurisdiction, a special federal bench of the terrorism court would be established in Islamabad to deal with terrorist acts outside of Pakistan. Bashir ended with the hope that the terrorism court would be effective because his worst fear was that the suspects would go through the process and then due to lack of admissible evidence would be found "not guilty."

15. (C) The Ambassador met with President Zardari on January 13 to discuss the ongoing Mumbai-related investigations. Zardari reiterated the GOP's plan to use law enforcement and the terrorism court system to hold the perpetrators of the attacks accountable. Zardari said the timeline for the investigation and prosecution had not been determined.

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16. (C) Comment: The GOP, recognizing the enormity of the Mumbai attacks, is finally trying to coordinate both message and action between all its various players. The decision to move the investigation into the law enforcement realm will allow for more transparency and public results that should help address Indian concerns. If Pakistan is serious about aggressively pursuing the Mumbai case, the GOP will have to steadfastly coordinate the various agencies and ministries involved- something which Rehman Malik's new Mumbai taskforce hopes to achieve. Malik told the Ambassador he would announce the formation of the Mumbai taskforce in a press conference this week. Pakistan will require both U.S. and Indian assistance in building a legal case with admissible evidence and successfully prosecuting the perpetrators of the Mumbai attacks. End Comment.
PATTERSON